



## Insurance: What Might Be Missing

– Ref 317

*with Nick Elwell*

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### TRANSCRIPT

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**Steven Bruce**

Good evening and good to have you. Good evening? Good afternoon and good to have you with us for today's lunchtime learning. We're not looking at clinical issues today we are looking at legal requirements. So in particular your malpractice insurance, there's a common belief that all malpractice policies are created equal. But I think we're going to find out that that may not necessarily be the case, when we delve into it a little bit more thoroughly. I'm joined today by Nick Elwell, who is the director at BGI UK, which makes him an insurance expert. So this is a great opportunity for you to get all your questions answered about insurance and about how it might affect you if the worst comes to the worst. Nick, good afternoon. Thank you for taking the trouble to come and join us today.

**Nick Elwell**

Thank you for the invitation.

**Steven Bruce**

Well, I mean, it's a hell of a challenge, isn't it? Because you are tasked with making insurance interesting for 45 minutes.

**Nick Elwell**

Well, insurance is one of those topics that everybody finds interesting as a matter of course, that should be addressed.

**Steven Bruce**

I suspect that everyone finds insurance very interesting when something goes wrong. And up to that point, they just ignore it.

**Nick Elwell**

I think that's true. Everybody will have received a policy in that it'll say you've got to read this document. And everybody reads that bit. But nobody reads the policy itself.

**Steven Bruce**

It doesn't help that they're usually dozens of pages long and using language, which is barely understood by a layman.

**Nick Elwell**

Well, I'm not sure if I agree with that altogether. But it's not easy. And it does take time. And if your main job is earning a living, you don't necessarily want to spend the time on that.

**Steven Bruce**

As opposed to that, and it will be interesting to compare policies. We're not going to do that today. But of course, what you don't know is what's not in your policy, because we're all required to have a basic level of malpractice cover aren't we of whatever it is 6 million or 5 million quid, and we're all required to have public liability insurance in place. But beyond that, we don't really know what we might also have.

**Nick Elwell**

Well, there are different requirements. The only thing you have to have by law in the UK is Employers Liability Insurance. So if you have any employees or Labour or any subcontractors, then you have to have Employers Liability Insurance.

**Steven Bruce**

So when you say subcontractor, you don't mean getting the painter in to decorate the clinic.

**Nick Elwell**

No, if you're going on holiday for a couple of weeks, and you get somebody to come in and cover for you, if they're working for you, rather than for themselves. They're your responsibility. If they have an injury at work, that'll fall to you.

**Steven Bruce**

But you don't need that insurance if you're just a sole practitioner and you close your practice when you're away from it.

**Nick Elwell**

No, it's only if you have an employee or a subcontractor working under your instruction.

**Steven Bruce**

I thought we have to have public liability insurance because the public are coming into our property and might injure themselves.

**Nick Elwell**

That's not a legal requirement. It may well be a requirement of various organisations that insist that to be a member, you have to have that covered.

**Steven Bruce**

Right. Do you think it's a good idea?

**Nick Elwell**

I think it's critical.

**Steven Bruce**

So we want to get the elephant in the room out in the open here, hadn't we? Because it means obviously you are a director of an organisation which sells insurance policies. And you're here because I've discovered you through one of our guests on the studio. And I was intrigued to find out more about what different policies do and I think there are lots of people out there who perhaps share that interest. So you have an interest in, I don't want to say selling policies, which are put out by BGI. But at least making sure people are aware of what it is they should have and could have.

**Nick Elwell**

We came across the requirements for insurance for we say holistic therapists, now that includes everything from the yoga teacher down to the osteopath, the chiropractor, and the people that like putting in Botox. And so it goes on. And what we found is that lots of people can buy insurance, but they don't actually know what they're getting. And what they were getting was very often not worth the money that they were paying for it. And so I was asked by a very erudite gentleman to look into it on His behalf and his group, which we did. And that became quite interesting. And so we carried on building it up from there.

**Steven Bruce**

Right. Now, I think you told me earlier on that you've been running this company since about 1982 or something.

**Nick Elwell**

For a long time, but I won't admit being that old yet.

**Steven Bruce**

Okay. But you've been running this company for a long time. What would you say the strengths are, of the company, not the policy?

**Nick Elwell**

Well, the policy of the company is perhaps what we're looking at, very much a case of we have clients who are individuals, not numbers. And we like being available to people, should they want to talk to us. Equally, if they want to buy something online, we're quite happy making that available to them online.

**Steven Bruce**

Yeah, and I think, you know, that's kind of a sort of a shared attitude that we have here at APM. I mean, I want people to talk to us, to phone us and ask for help when they need it. And we will go out of our way to provide that. And I suspect those people who've had to use their insurance policies really do need that sort of support, don't they from someone who knows what they're talking about. And I don't profess myself to be an insurance or a legal expert. think I'm reasonably sound at the outline principles. But when you're facing a complaint at the Professional Conduct Committee, you need somebody to tell you what's going on.

**Nick Elwell**

Indeed, much the same as most people in the UK aren't going to know very much about how osteopaths work. There's really very little reason why an osteopath should want to know how insurance works. And so as a rule, they don't until needs must.

**Steven Bruce**

So you've said that we don't need many policies. Actually, to be registered, we do need to have malpractice insurance.

**Nick Elwell**

Oh, indeed, there is a legal requirement for insurance, which is one end of it. And then there's your organization's requirements on the other. And that might include malpractice, public liability, employers liability we mentioned before. And then organisations will have other bits that they want you to have, because they think it's good practice.

**Steven Bruce**

Yeah. I remember you telling me when we discussed this some time ago, actually that malpractice insurance is probably the least costly bit of the compulsory insurance. It's the legal expenses thing, which ramps up the costs.

**Nick Elwell**

Well, there is, there are two types of legal expenses. There is just the legal expenses where you're looking for advice on how to react to someone's complaint, or their claim that they're making against you. But as soon as the claim becomes a formal claim for compensation, then the insurance company, the malpractice insurance company will then start picking up those costs. And they will settle everything from that point into conclusion.

**Steven Bruce**

Okay, I didn't realise that there was a legal expense or that there was a legal service available where you got advice prior to the complaint being made.

**Nick Elwell**

There is, we offer a legal expenses policy. It's not all inclusive. It can't be by definition. But it does offer a very good level of help, and a legal advice line so that if you think maybe someone's going to have a go at you, and you're not quite sure how to react to it, you can phone them up and ask.

**Steven Bruce**

Yeah, okay. But of course, you know, yours is not the only company offering these policies I imagine. Obviously, I know that Baylands and Locktons and others will provide malpractice insurance. So I'm thinking about these add ons that you're talking about.

**Nick Elwell**

I think we probably include more additional services rather than add ons, add ons has a reputation in insurance terms, you've got to be slightly careful, because it sounds as though you're trying to make money out of people, wanting to make the money. But we offer the legal expenses. And we encourage people to look at other things where they are vulnerable, sometimes without thinking about it. Some of them are insurance related. And some of them are not.

**Steven Bruce**

Have you got any examples that might sort of ring bells with our audience or things that they might not initially have considered that perhaps they should?

**Nick Elwell**

One of the end things that we talked earlier about cyber insurance, there are more cyber claims going on, probably than any other type of insurance, other than bashing people's cars around and that sort of thing. Data is now a very valuable commodity, and people will try and interfere with it, they'll try and steal it. So one of the things that we provide, which is fairly unique, is just a tag on your database, so that if anybody gets into it, we can tell you that they've gotten into it. And then you can close your computer down and take it around to the repair shop, or whatever you care to do. But at least you can keep it running allowing them to have access.

**Steven Bruce**

So what databases would that affect now, for example, my clinic, we use Jane as our clinic software. And all of the data, as I understand it is kept on cloud servers somewhere within the rules of UK GDPR, and all sorts of data protection. So you're talking about stuff that we keep on our own?

**Nick Elwell**

No, wherever. I mean, if someone hacks into your email address, they pick up your login code, your data, they immediately have access to data everywhere. And that's true with any organisation. If you're a clinic, maybe you have 1000 names and addresses. But you'll also have their bank details, you'll have their age, you'll have the sex, you'll have the, what they've been treated for and everything else. And that is valuable to people who want to create mischief. So best to protect it. And if you can't protect it, then do what you can and then insure against that loss.

**Steven Bruce**

And have you seen claims coming through from healthcare organisations, whether they're yoga or whether they're osteopaths, chiropractors or other?

**Nick Elwell**

We haven't because we've managed to get most of the people that we insure into a position where the claims are prevented before they actually happen.

**Steven Bruce**

Okay. And is that cyber insurance something, which is, what I would have called an add on, is that an extra paid service in addition to basic malpractice?

**Nick Elwell**

We provide what we call the data protect service within the insurance that we provide. But then to have full scale, proper in depth, cyber insurance, you need to pay for. But we've done a group scheme for everybody that insures with us and so I think it starts at about 65 pounds. And then can go up. I mean, if you've got 1000s of clients and you're worried about losing 1000s of bits of data, then you can increase the indemnity limits and pay more for it.

**Steven Bruce**

Right. And what is that indemnity? Presumably that indemnity is against a claim made by, probably a group claim from people saying that you've lost all this data because the ICO, the Information Commissioner's Office is not going to take us to court over this, is it?

**Nick Elwell**

Can do. If you have been negligent over people's data, you haven't been looking after it properly, then first thing you have to do is write to all of your clients and telling them that their data has been compromised. If you've got 1000 clients that's gonna cost you 20,000 pounds, just been sending out hardcopy letters.

**Steven Bruce**

They have to be hard copy?

**Nick Elwell**

Yeah.

**Steven Bruce**

Right. Okay. I mean that expense will be covered by insurance.

**Nick Elwell**

Yep. That's the idea of it. So there's all manner of things.

**Steven Bruce**

Yeah. Okay. Well, that's, I didn't even consider we'd have to write to them individually through the post. We had a whole lot of questions coming even before we started, which shows that insurance genuinely is interesting. So let me just turn to a couple of those. Would one's liability insurance cover one for services rendered outside my primary practice? So I guess we're talking about medical malpractice insurance, liabilities insurance that one means?

**Nick Elwell**

Well, it is any insurance, the insurance policy that our cover provides covers the individual anywhere in the world apart from the USA, Canada. So if you decide to take a month in Spain where the sun shines, and you want to practice a little bit of osteopathy out there as well or just do some simple massage or whatever it might be, you're covered out there whilst you're doing it.

**Steven Bruce**

I'm guessing the states is excluded, because they're just claims hungry out there.

**Nick Elwell**

They are claims hungry, different rules apply, different premiums apply, we can do it, but it'll cost more.

**Steven Bruce**

This next one is about what's called a claims made policy. And I didn't know that was a term. If I have a claims made policy do I need to buy additional runoff cover to protect me from claims made after I cease trading?

**Nick Elwell**

Okay, there are two types of insurance when it comes to liabilities. One is claims occurring and the other is claims made. If you consider your home insurance, if you renew the policy, and then 10 days afterwards, you find that there was a huge leak causing damage in the house, then that claim would probably go back to the previous year. Under a claims made policy, it would be this year. So each year that you renew the policy, the claim you make is against the current policy, not against the one that was current at the time.

**Steven Bruce**

Right. I see. And so in terms of, in terms of our practice, we need claims occurring.

**Nick Elwell**

Do a claims made, because it's much easier to close off the claims experience, because you know, that's the end of it, and then you move forward into the next year.

**Steven Bruce**

So what happens in this case, when you stop, you deregister, you stopped treating and someone two years later says actually, this was your fault.

**Nick Elwell**

Fair enough. The policy has what's called a retroactive date. And the retroactive date will go back to the date that you first started trading, providing you've had insurance right the way through.

**Steven Bruce**

So even if it wasn't your insurance, it was still covered.

**Nick Elwell**

Absolutely. It covers you from the day back until you stop.

**Steven Bruce**

Okay, well, that's reassuring. If I provide remote consultations, does my liability insurance policy cover those online consultations? And are there any specific requirements to ensure coverage?

**Nick Elwell**

Yes it does, I mean, this is something that we've always...

**Steven Bruce**

Sorry to interrupt. We need to make it clear whether you're talking about your policy or policies generally, because...



**Nick Elwell**

Our policy does, lots of policies didn't, but along came COVID when more and more people were working remotely as a necessity. And so I think most of them will give an element of cover for online advice. I've not yet worked out anybody could do an online massage or anything like that. But for all intents and purposes, if someone rings in and says I've hurt my knee, what should I do about it? Any advice you give at that point in time, would be covered under the policy.

**Steven Bruce**

Right. So that's now the standard, is it for...?

**Nick Elwell**

I wouldn't say standard, lots of insurers still don't like it. But I wouldn't say that we were the only person who now did it.

**Steven Bruce**

Right. Okay, but you have added it in your base. This is one thing that's occurred to me and it was reinforced recently, we've run to dry needling courses here in the studio over the past year or so. One of the tutors is a professor from Johns Hopkins Medical School in the States. The other is a very experienced osteopath, who deals a lot in trigger points and needle work in those trigger points. But of course, in keeping with so many institutions, there's no real formal qualification for treating needling, sorry, for teaching needling. Now one of the people on the course is insured with, through one of your competitors. But it doesn't matter who, she has been told that they won't insure, they won't provide cover for that dry needling treatment. Because they don't know the quality of the training. How should practitioners deal with that, you know, when somebody goes on a course, they want to know that afterwards are going to be able to use the skills.

**Nick Elwell**

That's a very, very difficult question to answer in a single sentence.

**Steven Bruce**

You can have two.

**Nick Elwell**

Most insurers like to see some form of certification that enables you, qualifies you to do what it is you're doing.

**Steven Bruce**

Probably approved by some recognised body or simply a statement...

**Nick Elwell**

Yeah. And some of them I don't think they are worth the paper they're written on but they have a certificate saying so. We prefer to adopt the stance that we'll ensure you providing you're qualified either by certification or experience. And we actually prefer experience. So if you've been doing it for 10 years, and you're now teaching somebody else to do it, that's fine. If you've been doing it for 10 minutes, and

you teach somebody else to do it. Well, we wouldn't take too kindly on that because we wouldn't say that you were properly qualified.

**Steven Bruce**

So this particular practitioner is in my practice. So she's been taught by somebody who's got, he's now a retired neurosurgeon, he's a professor at Johns Hopkins, he's probably got a bit of practice behind him and a bit of...

**Nick Elwell**

Yeah, he's probably got the best of both. So there would be absolutely no doubt at all, that we would like to have that sort of person on board, because then we would reasonably or be reasonably comfortable when the individuals who had been trained came to us asking for that insurance, that they'd been properly trained. And we would be comfortable in taking them on as well.

**Steven Bruce**

That's useful to know for her and and for the others who've come on our course. What I think what we'll have to do is on the future courses, we've got one planned for October this year. And we'll make it clear to them they need to check in advance that they're going to be covered for doing the needling and then we can recommend them where to go if they're not.

**Nick Elwell**

Absolutely. Very, very much so.

**Steven Bruce**

If I work at multiple locations, or have multiple practices, does my policy cover all of them. And is there any difference in premium costs. Obviously, you don't know what their particular policy says, I presume standard.

**Nick Elwell**

The general policy that we start off with is for a person working on their own account. So osteopath, chiropractor, teacher, whatever, just doing their own thing. When that person decides wouldn't it be a good idea to have a clinic and they start bringing in other people, then additional insurances are required. If they get additional premises then and so it carries on building, then you become a business, then you become a corporate client, rather than an individual.

**Steven Bruce**

But in terms of me as an osteopath, if I work in 14 different clinics, I am covered to work in those clinics to the level I need to be covered.

**Nick Elwell**

There is one point that's particularly important there actually, is that if you're working for somebody else, you need to make sure that your policy is what's called an indemnity to principles clause. Because if you decide to go and cover for a friend, who's taken a couple of weeks off and is motorbiking going across Spain, then if there is an incident, the chances are the claim won't be brought against you, it will be

brought against the person you're doing the work for, because that's who they booked in the consultation with. That's who they're paying their money to. And that's who the claim will go to. So it's then necessary that because he doesn't obviously want to pay the claim, it wasn't his fault. But he can submit that claim back to you. But you can only do that if there's an indemnity to principles clause, so that would then indemnify the company he's working for. A lot of those...

**Steven Bruce**

All this stuff, you know, most people are going to forget all these terms a moment after we stop this broadcast. So when someone goes to take out an insurance policy, how do they remember to think about all these things? How do we make sure that they're covered?

**Nick Elwell**

Perhaps the easiest thing is we could give you a list of 10 points. Make sure that you either are covered for this or that you don't need it. So it doesn't matter.

**Steven Bruce**

Yeah, that will be very helpful. I mean, what I normally do is I follow up these broadcasts with an email the next day if there are things to reinforce with people and I don't know if you can do it by tomorrow, but we'll...

**Nick Elwell**

I might give it a go.

**Steven Bruce**

Okay. Andrew says, do you have any advice for a provider of public liability or employers liability for people working in our situation, osteopaths and chiropractors?

**Nick Elwell**

Anybody will, or any insurer technically will look after that, you need to make sure that the employers liability cover includes an osteopath, if you're employing them not just clerical people. But it shouldn't be a problem. Some people don't like medically related, holistic therapy related, therapists for one reason or another.

**Steven Bruce**

You use the term employed there. Actually, of course, most osteopathic practices that have a large number of practitioners, they don't employ them they work as associates.

**Nick Elwell**

They may not pay them PAYE. But they're working under instruction. And therefore if they had an injury at work, they would be employees.

**Steven Bruce**

Right. Okay. And does that affect in any way the patient's ability or right to sue the practice as opposed to the practitioner if something goes wrong?

**Nick Elwell**

Well, as a matter of course, if you have a clinic and a group of people in there, you might find that two chiropractors, three osteopaths and a couple of physios. But they'll all be paying their checks, if they pay checks anymore to the clinic. And if something goes wrong, they'll see the clinic, not the individual.

**Steven Bruce**

Right. Interesting and definitely something has gone through our mind in my own clinic because we have this constant debate over whether practitioners should be employed or not. And there's legal precedent.

**Nick Elwell**

The term employed is a little bit difficult sometimes in the UK because you always think if you're employed you get a salary. But that's not the case. I mean, if you hire a brickie to come and build a wall for you, you are effectively employing him. And you just need to bear that in mind. So if you've got anybody working for you, you are responsible for their wellbeing.

**Steven Bruce**

Right. Okay. Yeah useful to know. There's a famous case of the Pimlico plumbers wasn't there where somebody, Pimlico plumbers employed at their plumbers on a sort of an associate basis, so they gave them work. And all of the plumbers were quite happy to be self-employed until the point where one of them had to stop work because he had a heart condition, at which point he found a solicitor to say actually, no, they should have been employing you and therefore they should now be paying you your sick pay and all the rest of it. And I think he won his case as well. And there were lots of legal criteria by which they determined that he was technically an employee in terms of Nixon, PAYE and all that sort of stuff.

**Nick Elwell**

If you go to the same place every day, you're an employee. That's pretty much the sum of it.

**Steven Bruce**

Jeezy says I've had to take out three different policies. As no one insurance company would cover me for osteopathy, functional medicine, mesotherapy and phlebotomy. They're all considered separate with variable risks, which I understand but I don't understand why they can't be separate within the same company.

**Nick Elwell**

Some insurers will be very specific as to what they will and won't insure. What was the one they said?

**Steven Bruce**

Phlebotomy?

**Nick Elwell**

I don't know.

**Steven Bruce**

Mesotherapy. Functional medicine?

**Nick Elwell**

I don't, I have to say I don't know what functional medicine is, from a insurance perspective. I have to check on that one. But everything else can be done under one policy with us.

**Steven Bruce**

Yes.

**Nick Elwell**

And I would have to, we're not perfect all the time see what functional medicine is to see if we can integrate that or not.

**Steven Bruce**

Again, that will be very interesting to know as well. Kim says can you explain what entity insurance is? I'm glad she asked because I've never even heard of it.

**Nick Elwell**

Normally speaking, if you run a business, you might have directors and officers insurance. So that protects the individual directors and the officers against claims against them personally. But then a claim against them personally, may not come to anything if the director responsible has just disappeared off to the south of America, in which case, the claim would fall back on to the entity that is to say, the company who employed that person. So entity cover is normally the employment or the employing company.

**Steven Bruce**

Right. And although you have said that if we have people coming to the same place of work every day than they are technically employees, if we're not a limited company, there is no entity or?

**Nick Elwell**

No, then you are the entity as an individual.

**Steven Bruce**

Okay, right. There's no easy way out of all this, is there?

**Nick Elwell**

Oh no, you're stuck in the middle of it, and the best thing to do is to understand it, so you can then deal with it rather than pretend it's not there.

**Steven Bruce**

Okay, well, hopefully, that's clarified things for Kim. Xena says, could you advise about entity insurance? Just reading out the rest of her question as a practice owner renting out rooms to independent practitioners, can we be sued or claimed against rather than the individuals themselves? I thought my clinic insurance was covering this but recently found out not, would be interested to know more about that Xena. But I think we've kind of covered that, haven't we?

**Nick Elwell**

If you're renting out space, well, then you have no worry. But if you're collecting the fees for the services being provided, then you're definitely in the firing line.

**Steven Bruce**

In my clinic, we take the fees, but we take it on behalf of the practitioners, we give it all back to them at the end less what we've charged them was room rent.

**Nick Elwell**

Okay, but you're raising the invoice to the client.

**Steven Bruce**

Interesting. If they ask for an invoice, I guess we are, yeah.

**Nick Elwell**

So you are effectively the person they're contracting with.

**Steven Bruce**

It's coming through our card machine and going through our online booking service.

**Nick Elwell**

I think you need to be cautious.

**Steven Bruce**

Right. Okay, well, that'll worry a few people, I think. Trish says I had a period of being non practising on the general osteopathic Council registered during COVID when there was an interruption in her insurance cover. Would that mean that retroactive cover would not now be continuous?

**Nick Elwell**

That is a great question. And the simple answer is no. But if we know that that happened, when it happened, then we would write into the policy a clause saying that we're taking that into account and for the retroactive cover applied.

**Steven Bruce**

But I mean, that retroactive cover only covers the period that she was treating for which is insured, so...

**Nick Elwell**

But it might have been before that. Yeah. So if she was working for 10 years and then not for two years, and then working for 10 years again, then technically because there's a breach when she wasn't working and not insured, then the retroactive cover would only go back as far as insurance of being continuous.

**Steven Bruce**

Okay, I've got you.

**Nick Elwell**

But if we know that there'd been a break for a good cause, right, then we can overcome that.

**Steven Bruce**

Okay. Bridget has asked if I can ask you about hypopressives, which I'm guessing you won't know anything about hyperpressives.

**Nick Elwell**

Not immediately.

**Steven Bruce**

Let me explain it. And I'll read the rest of this a few years ago, she got tied up in knots trying to get insurance to provide this separate to chiropractic insurance. I was told by the insurance company that I was too medical and needed a level four or above physical therapy certificate. Now, hypopressive training is a physical therapy, designed primarily, I suspect that the people who train would pick me up on this, but let's say primarily for postpartum women who typically suffer from stress incontinence. And the normal treatment for them is pelvic floor exercises, which in a huge number of cases are not effective. Hypopressives claims to be much more effective. So it's teaching a sequence of breathing and exercise, which will retrain muscles which will overcome those problems. It's taught over a weekend course, and there are probably advanced courses you can go on.

**Nick Elwell**

I wouldn't have a problem with that at all.

**Steven Bruce**

No, from what you said to me off air before it just sounds like somebody has been taught by people who know what they're doing so and also, I thought that, you know, it's a fairly risk free enterprise, it's not as though you're going to be causing damage through this training, even if you don't solve their problem.

**Nick Elwell**

Absolutely say that. I mean, there's no guarantee under the insurance that it's going to work. But equally as you say, all you're going to do is improve their core strength, if nothing else. I don't have a problem with that at all. I think it's slightly absurd that anybody would think otherwise.

**Steven Bruce**

Mike wants to know if you can tell us how many instances there are of claims being made with regards to the data theft and claims made there in relating to clinico.

**Nick Elwell**

I can't be precise on that at present, I could probably get you some information.

**Steven Bruce**

Okay. Clinico recently had a problem?

**Nick Elwell**

Not that I know of.

**Steven Bruce**

Right. Okay, I'm guessing it could apply to any online service. I know when we we stopped using PPS many years ago now. But there was a problem there. I think when they've been hacked, and their servers all crashed. I don't know if any data was lost, but it was certainly, yeah, it was a difficult period for them. But our that is now held online. Does the policy, I'm guessing we're asking about your policies rather than anybody else's. But does the policy include coverage for public liability in case of accidents or injuries that occur on the practice premises?

**Nick Elwell**

Yes, it does. We were vaguely talking about this a little earlier as well. If you're in premises, if you're in a clinic, then you've probably got some form of clinic insurance. And so that would typically cover the person who walked in through the front door and tripped over a cable or whatever it might be, nothing to do with you providing the treatment. On the other hand, if they're now in the waiting room, and you're asking them to come and get on the couch, and they trip over something you've left on the floor, at that point in time, the treatment is for all intents and purposes begun. So yep, it would be covered in that circumstance, you've got to be a little bit careful to make sure you've got both in place.

**Steven Bruce**

This is public liability and malpractice.

**Nick Elwell**

Absolutely. Yep. I mean, the policy that we provide covers both, but it won't run as far as property owners' liability. So if someone walks into the door and catches their jacket on the nail that's stuck out from the wall, that won't be covered under your clinic policy, because it's the person who owns the property who's responsible. So there are some fairly clear lines to be drawn.

**Steven Bruce**

What's the policy that does cover people ripping their coats on the nail?

**Nick Elwell**

It depends on who owns the property, or whether or not the property owner is the same as the occupier. Or if the occupier then has signed a lease saying that he's responsible for the property.

**Steven Bruce**

Let's say that they are the owner, or they have accepted responsibility for the property...

**Nick Elwell**

Then they would have, well, you would almost automatically, if you own a building, and there's a clinic inside it, you'll ensure the building, that building would give you property owners liability cover, and that would then cover any injuries to individuals caused as a result of the property, rather than as your clinical occupation.



**Steven Bruce**

I thought we were going to struggle to come up with things to talk about in this show. I was thinking, you know, I think we all know what malpractice insurance is and I'm a stagger that I had no idea about these nuances within different types of policy. And, you know, when my malpractice cover is enforced effectively, I thought that was just if I break someone's neck doing a manipulation badly, but no tripping over the cables in the treatment room is also there. Gosh. I don't know who asked this, but they want to know what the process is for updating coverage limits or making changes to the policy as their practice grows or evolves.

**Nick Elwell**

Very easy. There's a thing that someone invented a while back called a telephone. If you jump on the phone and call us we'll do it. You can also send us emails you can do it online; you can even go into your own policy page and send a message through that policy page.

**Steven Bruce**

And presumably, unless there's some significant change, or someone says, I've just trained in dry needling, can I add that onto my policy? Is there an increase in fee for that?

**Nick Elwell**

Only if you are going up from one category to another. So for example, if you're an osteopath, you've got a fixed rate and it's going to be that. But if you're an osteopath, who only does soft tissue massage, right, then we will charge you for doing that massage therapy only.

**Steven Bruce**

Seriously?

**Nick Elwell**

Yeah. Why would we charge you more if you're not going to be doing all the other things?

**Steven Bruce**

Because I've never heard anywhere else where they've said, actually, usually it's just you're an osteopath, these are your fees, not though if you don't do manipulations, high velocity thrusts and it's a different value, presumably lower one.

**Nick Elwell**

Yeah, absolutely. Yeah. We try and gauge the premium that you've got to pay to the risk that you're likely to present.

**Steven Bruce**

Okay. I'm guessing from what I've seen with other providers that the fees for chiropractors and osteopaths are significantly different. Or does that again depend on what you do within your practice?

**Nick Elwell**

It depends on what you do. I mean, if you're an osteopath who insists on sticking injections up by people's spines, it'll cost you at least as much as an osteopath. But osteopath, generally speaking, will cost a little less than chiropractors.

**Steven Bruce**

Right. I'm a chiropractor who only does sacral occipital work rather like an osteopath who does cranio sacral work. Are they similar?

**Nick Elwell**

If the osteopath and the chiropractor both only do cranial therapy, for example, then they would pay the same premium.

**Steven Bruce**

Right. That might be interesting to a lot of people. This person says I'm a manual therapist who has been employed for several years. But I'm now looking at setting up my own clinic. I think you've covered this, but they need to know what other insurance they need to consider.

**Nick Elwell**

It depends on how big the clinic is, where it is, what you're doing in it, whether or not you're going to provide a cafe to go with it afterwards and call us and talk us through it. And then we can determine what you need.

**Steven Bruce**

I suppose yeah, I suppose it depends, if you are buying your own practice or your own building.

**Nick Elwell**

They vary so much. I mean, very often a person who starts being an osteopath on their own right to build up from their garage or their shed or whatever, they can find that they can squeeze someone into, so long as it looks reasonably presentable. And it doesn't cost too much. And then you move out to people who are living or working beside gymnasiums. And so they'll get natural flow of business with people who try to lift more than they should and that sort of nonsense.

**Steven Bruce**

Okay, so let's just look at that, because you're right, that is quite a common thing for osteopaths, and chiropractors and sports therapists to do is to be given a room inside a gym somewhere. If they're doing that, do they need to think beyond malpractice insurance cover?

**Nick Elwell**

There will be an element that they need to because there's probably a contract in place that says they can or they can't do this, or they must do that, and they mustn't do something else. And as soon as there's a contract in place, there's a liability and you might want to insure that liability, you might not. Again, the best thing is tell us what you're doing. And then we can tell you whether or not you need to think about insurance.

**Steven Bruce**

You say that but my experience of trying to contact the insurance is I send them an email and bugger all happens for six weeks.

**Nick Elwell**

I would like to think that we're a little different.

**Steven Bruce**

This is turning into a sales pitch for BGI. I don't mind that because I already know that you guys are far more responsive than some of the people I've dealt with in the past. How does an insurance company handle situations where a patient alleges injury or malpractice after an extended period has passed since the treatment?

**Nick Elwell**

That can vary. It depends on all sorts of things, including the value of the potential claim that someone's trying to see for a million pounds, the insurance company will look at it slightly more promptly than if they just said I hurt my finger. There isn't a simple answer I can give to that. But the most important thing is as soon as you hear from a client with a potential claim, tell us about it. And then we can monitor that and deal with it as it comes through.

**Steven Bruce**

I was really infuriated myself, not because a complaint was made against me, but because of the process. And this was two three years ago. It was a fellow osteopath who complained about me. And, of course, I felt I had to tell my insurer straight away that a complaint had been raised even though it had only gone past the investigating committee at the General Counsel. But of course, as soon as I tell the insurance company, they are now paying for a lawyer. And although it didn't cost me any money, I was infuriated that we couldn't avoid that expense because all of these things ramp up other people's insurance?

**Nick Elwell**

Absolutely. We're a little bit well ahead of that insofar as we will look at the event, and then we will talk to the insurers. And we will tell them whether or not we really want to get involved in that. Or if we want to just leave it for the time being. If we leave it for the time being, the insurers are quite happy watching it for a while. They don't need to deal with it immediately.

**Steven Bruce**

Right. So because I was fiddling with my mic, I hardly heard anything that I said, just there. But hopefully, the audience will have got the gist of that, I think. We've got a few minutes left on this. So what are the other things that people might want to consider should be part of their insurance, overall package? Not necessarily that you provide, but that anyone provides.

**Nick Elwell**

Well, the best thing you can do if you're going to run any sort of business, is to sit down with a glass of wine or a glass of water, whichever takes your preference, and say, what if, and if there are a lot of things that the what ifs come up, and you're not sure if you can afford to pay for them or avoid them or deal with

them, then insurance is a possible option. A lot of them aren't compulsory, so you don't have to buy insurance. But the idea of insurance is if a lot of people pay a small amount of money, then when something goes wrong for the one, there's sufficient revenue in the bank to cover that cost.

**Steven Bruce**

Yeah. One of the ones which comes up very frequently, of course, is what if I'm ill, and I have to stop work for a period of time, which falls short of the standard, or is it six weeks or something that usually sees a fracture healed?

**Nick Elwell**

You can take out personal accident insurance, you can have illness insurance, you can have long term cover, you can have short term covers, it's all available. So if you're worried about that, it's part of your list. If you sat down and said this is something really worries me. I think probably I know more osteopaths have broken their leg playing rugby than any other single trade. And I dare say that none of them had personal accident Insurance. But you can have it, you can buy it if you want to. You don't have to.

**Steven Bruce**

Right. And how about if it was something that was a little bit shorter term than a broken leg, cause we know that's a fairly lengthy absence, isn't it?

**Nick Elwell**

Again, you can do it. You can buy insurance with a week's notice. So most people aren't going to pay any form of cover if you're ill. If it's less than a week, but accidents you can cover immediately if you want to because they're unexpected.

**Steven Bruce**

Yeah. Okay. I think this question from Trevor is quite an interesting one. Will your insurance cover treating professional athletes or celebrities, as he knows that some insurers ask for a separate risk assessment.

**Nick Elwell**

We are cautious. So we will always ask you approximately what you think your patient might be earning? Because if he's a topflight footballer, and you managed to do something, which means he can't run for a year, you're in for millions, or you do it the same with Granny Smith, then you're just not...

**Steven Bruce**

Sorry. You asked us what our patient might work. We don't know, do we until...

**Nick Elwell**

Yes, you do. Because if you know he's a famous footballer, you can guess that he's probably earning a couple of million. But we're not asking for exact amounts. If he's a famous actor...

**Steven Bruce**

Okay. So when I take out my insurance, I don't know that a footballer or a celebrity of some sort is going to book him with me. I have standard insurance. As soon as I see a celebrity come up on my radar, assuming I spot them, because if they're a social media, sorry, a soap opera star, I wouldn't know.

**Nick Elwell**

In that event, we wouldn't expect you to know when to charge any more. But generally speaking, where people start dealing with one osteopath, then they will tell their mates and they'll go and deal with them. And so you start building a book.

**Steven Bruce**

Or if I started working for a professional football club or for a film studio, something like that, then it would be important.

**Nick Elwell**

It just increases the, not the likelihood of there being a claim, but the value of that claim that things went wrong.

**Steven Bruce**

Yeah, indeed. Okay. It's not something, I wish it were a problem that I had such high value clients coming through my books. Again, I said, insurance might be a difficult subject to sell, but we've got over 350 people watching us live at the moment. So clearly, there are people intrigued by this. Now, I hate it when any of my shows come across as a sales pitch. But the reason you're here is because I want to get into some sort of relationship with BGI insurance. What does that mean for anybody who opts to go with BGI?

**Nick Elwell**

Well, we are regulated brokers, we've been around for a few years, most of the people that we help will give us a good reference. We have one or two who have disapproved of what we've done or whatever. But I guess that's just the way that the cookie crumbles sometimes.

**Steven Bruce**

Okay, cool. Give us an example. What would people complain about that you have...

**Nick Elwell**

One of our therapists was a sex therapist. It transpired that he was then accused of rape. And he couldn't understand that whilst that policy would cover him for injury caused during the therapy, rape was a criminal act, and therefore wouldn't be covered under the policy.

**Steven Bruce**

Right. Okay. Is that common for all insurance policies that if what you've done wrong is a criminal act, then it no longer counts as malpractice?

**Nick Elwell**

Pretty much. I say pretty much because there are always exceptions to the rule where people may not know it's a criminal act. And it may be judged wrong, but not criminal. And then there's, yeah, there are too many laws to just give you a straightforward yes or no answer. But generally speaking, most people know that rape is not something that's going to be approved of in the high courts. And so he said, no, you're not covered. And he decided to test that by taking us to court and lost.

**Steven Bruce**

Right. Okay. I guess I can see their side of the, I don't mean sympathy with somebody who's a rapist. But I can see why they might have questioned that.

**Nick Elwell**

The policy very clearly on the schedule on this, in particular says excluding any criminal activity.

**Steven Bruce**

I guess you can't get insurance anywhere for criminal activity.

**Nick Elwell**

And it excludes also any sexual harassment or abuse cover.

**Steven Bruce**

Okay. But that's one of the most common causes of complaint crossing sexual boundaries, isn't it? So that presumably has to be covered if somebody's accused.

**Nick Elwell**

Again, we had a case recently where that came to the light as it were, and the insurance followed it through. Because it was some doubt as to whether or not it was even sort of morally wrong. I mean, effectively, it came down to a level where the male osteopath undid the bra straps of a female that he was massaging. And then she went back for a second session, and after the second session complained that she hadn't given him permission. So there are, yep, but I can't see how we could not possibly be on site with that.

**Steven Bruce**

Yeah. Okay. Gigi asked another important question is, I think the answer is reasonably clear. But she's saying if we're having to tell you about any celebrity clients, or professional athletes, isn't that a breach of data protection?

**Nick Elwell**

No, for two reasons. One is we're not asking you to tell us about anyone that comes in. So if you're running a practice, and someone turns up, and then afterwards, you discover that they're quite famous because then that's a one off event, we'll take that as it comes. But as you were saying, if you're working for a football team, or working for an Olympic Association, then we need to know about that, because then the value of a claim, would far exceed that than if you're just dealing with....

**Steven Bruce**

I think her point is, in order to know what someone's earning, would you have to know the name of that client, that patient.

**Nick Elwell**

We would have to know if they wanted us to insure them.

**Steven Bruce**

Okay But then the easy way around it is you say to the person concerned, I'm gonna have to declare you as a special patient. Can I reveal your identity to the insurers? I understand completely why that question was asked. But I do think that we sometimes get wrapped a bit too far around the axle about GDPR. Because there are usually, there are good reasons or easy ways around it. Sensible, I don't mean breaking it.

**Nick Elwell**

It's the same as we're sort of caught up with GDPR as well, obviously, because every time that we have a client's details, we have everything about them. We put in there that their information will be shared with other insurance companies and intermediaries and what have you where the need must. And I would suspect, I don't know that one could introduce something similar in a contract with a patient.

**Steven Bruce**

Possibly the last question here, Cinda says, Is there a legal limit of public liability that they can claim and I'm pretty sure she must be referring to celebrities or professionals. Is there a legal limit of public liability they can claim through the court, which would limit the value insured on a policy anyway?

**Nick Elwell**

No, no.

**Steven Bruce**

And there are some absurd sums which are awarded in the court.

**Nick Elwell**

There are some ridiculous sums.

**Steven Bruce**

Yeah. Gigi's come back and say yes, NDA, I think she means functional medicine, she's referring to functional medicine is standard with high, oh, sorry, nondisclosure agreements are standard with high profile patients. But I'm not sure how this impacts insurance in terms of them having special treatment with a potential claim. I think there's a difference between a nondisclosure agreement and getting their permission to make sure you've got insurance to cover them, they'd welcome that.

**Nick Elwell**

Well, absolutely. We sign NDAs all the time with different people who do different contracts with, but as a matter of course, we have to tell people in the market, what we're doing and how we're doing it. Otherwise, how can they judge the risk?

**Steven Bruce**

Any celebrity would welcome the knowledge that they were covered.

**Nick Elwell**

They'd prefer to know they were.

**Steven Bruce**

Well, thank you. We raced through that it's extraordinary how much you had to say there, Nick. I'm amazed. But that's it for today.